

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

THOMAS WARDELL DOLPHUS,

Petitioner,

v.

2:20-cv-00004-JCH-LF

ATTORNEY GENERAL OF
THE STATE OF NEW MEXICO, *et al.*,

Respondents.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

The Magistrate Judge filed her Proposed Findings and Recommended Disposition (“PFRD”) on July 1, 2021. Doc. 20. The PFRD notified the parties of their ability to file objections within fourteen (14) days and that failure to do so waived appellate review. *Id.* at 13. On July 14, 2021, Mr. Dolphus filed a motion requesting additional time to file objections. Doc. 23. The Court granted this motion, and extended the deadline for Mr. Dolphus to file objections to the PFRD until August 16, 2021. Doc. 24. The order granting the extension reminded Mr. Dolphus that the “failure to file timely and specific objections will result in waiver of de novo review by a district or appellate court.” *Id.* at 1. To date, the parties have not filed any objections and there is nothing in the record indicating that the proposed findings were not delivered.

The PFRD advised Mr. Dolphus that if he “wishes to proceed with this habeas petition based solely on the exhausted claims, he must file an amended petition that includes only those claims” within fourteen (14) days of this order. Doc. 20 at 12. In his motion requesting an extension of time to file objections, Mr. Dolphus advised the Court that he has limited access to a law library and legal forms. Doc. 23 at 1–2. Mr. Dolphus also asked for additional time to file

paperwork with the Court. *Id.* Therefore, the Court will not require Mr. Dolphus to file a completely new habeas petition containing only his exhausted claims in order to proceed on his exhausted claims. Instead, if Mr. Dolphus wishes to proceed with his habeas petition based solely on the exhausted claims, he need only file a document that states this within thirty (30) days of this order.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 20) is ADOPTED, subject to the modifications outlined above;
2. If Mr. Dolphus wishes to proceed with his habeas petition based solely on the exhausted claims—speedy trial violation (Claim 2) and sufficiency of the evidence to support his manufacturing convictions (Claim 3)—he must file a document that states this within thirty (30) days of this order;
3. If Mr. Dolphus fails to timely file a statement expressing his wish to proceed solely with his exhausted claims, the Court will dismiss his entire petition without prejudice;
4. The CLERK OF COURT shall mail Mr. Dolphus a copy of his original petition (Doc. 1).



SENIOR UNITED STATES DISTRICT JUDGE